

**MINUTES OF THE  
CITY PLANNING COMMISSION  
APRIL 20, 2007  
J. MARTIN GRIESEL CONFERENCE ROOM  
TWO CENTENNIAL PLAZA – SUITE 700  
805 CENTRAL AVENUE**

**CALL TO ORDER**

Mr. Faux called the meeting to order at 9:05 a.m.

**Commission Members:**

***Present:*** Caleb Faux, Donald Mooney, James Tarbell, Scott Stiles and John Schneider.

**Community Development and Planning Staff:** Margaret Wuerstle, Bonnie Holman, Steve Briggs, Katherine Keough-Jurs, Adrienne Cowden and Jennifer Walke.

**Law Department:**

Julia Carney

**Building and Inspections Department:**

Reggie Lyons

**APPROVAL OF MINUTES**

Submission of the minutes from the April 6, 2007 Planning Commission meeting for approval.

<b>Motion:</b>	Mr. Mooney moved approval of minutes.
<b>Second:</b>	Mr. Stiles
<b>Ayes:</b>	Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider
<b>Nays:</b>	None, <b>motion carried</b>

**CONSENT ITEMS**

**ITEM #1**      A report and recommendation on a Plat of Subdivision, Record Plat for the Brodbeck Park Subdivision Phase Two in Westwood.

**ITEM #2**      A report and recommendation on a permanent sanitary easement and two temporary construction easements for the Mill Creek Waste Water Treatment Plant Septage Receiving Station project.

**Motion:**      Mr. Mooney moved approval of Consent Items #1 and #2.

**Second:** Mr. Tarbell  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, **motion carried**

### **DISCUSSION ITEMS**

**ITEM #3** The Urban Mix district text amendments for sections 1400-11, 1400-15, 1419-29, 1421-17, 1421-33, 1421-13-A, 1425-19-A, 1425-23, 1427-37, 1447-11.

*Ms. Jennifer Walke, Senior Planner presented this item.*

### **PURPOSE:**

To obtain approval from the City Planning Commission (CPC) of texts amendment to correct several oversights for the newly created Urban Mix (UM) District.

### **PROPOSED TEXT AMENDMENTS:**

#### **§ 1400-11. Establishment of Zoning Districts.**

For the purposes of the Cincinnati Zoning Code, the City of Cincinnati is divided into 22 zoning districts. These zoning districts are intended to:

- (a) ***Location and Use.*** Regulate and restrict the location and use of buildings and land for residence, commerce and trade, industry, transportation, communications and utilities and other purposes.
- (b) ***Dimensions.*** To regulate and restrict the height and size of buildings and structures hereafter erected or structurally altered, the size of yards, setbacks, other open spaces and the density of population.
- (c) ***Standards.*** To establish site development and design standards, subdivision standards and requirements for adequate public facilities and services.

Base zoning districts and chapter references are shown in Schedule 1400-11. References to classes of districts (SF, RM, C, **UM**, DD, M, RF and IR) include all of the subdistricts.

#### **Schedule 1400-11: Establishment of Zoning Districts**

Base Districts and Chapter Reference	District
1403 Single-family Districts	Single-family (SF-20)
	Single-family (SF-10)
	Single-family (SF-6)

Base Districts and Chapter Reference	District
	Single-family (SF-4)
	Single-family (SF-2)
1405 Multi-family Districts	Residential Mixed (RMX)
	Residential Multi-family (RM-2.0)
	Residential Multi-family (RM-1.2)
	Residential Multi-family (RM-0.7)
1407 Office Districts	Office Limited (OL)
	Office General (OG)
1409 Commercial Districts	Commercial Neighborhood (CN)
	Commercial Community (CC)
	Commercial General (CG)
<b>1410 Urban Mix District</b>	<b>Urban Mix (UM)</b>
1411 Downtown Development District	Downtown Development (DD)
1413 Manufacturing Districts	Manufacturing Limited (ML)
	Manufacturing General (MG)
	Manufacturing Exclusive (ME)
1415 Riverfront Districts	Riverfront Residential/Recreational (RF-R)
	Riverfront Commercial (RF-C)
	Riverfront Manufacturing (RF-M)
1417 Institutional-Residential Districts	Institutional-Residential (IR)

#### **§ 1400-15. District Hierarchy.**

The term "more restrictive" district applies to any district in the sequence set forth in Schedule 1400-15 that precedes any other district in Schedule 1400-15 and the term "less restrictive" applies to any district which succeeds any other district in Schedule 1400-15.

#### **Schedule 1400-15: District Hierarchy**

- (d) Single-family (SF-20)
- (e) Single-family (SF-10)
- (f) Single-family (SF-6)
- (g) Single-family (SF-4)
- (h) Single-family (SF-2)
- (i) Residential Mixed (RMX)
- (j) Residential Multi-family (RM-2.0)

- (k) Residential Multi-family (RM-1.2)
- (l) Residential Multi-family (RM-0.7)
- (m) Riverfront Residential/Recreational (RF-R)
- (n) Office Limited (OL)
- (o) Office General (OG)
- (p) Institutional-Residential (IR)
- (q) Commercial Neighborhood-Pedestrian (CN-P)
- (r) Commercial Community-Pedestrian (CC-P)
- (s) Commercial Neighborhood-Mixed (CN-M)
- (t) Downtown Development (DD)
- (u) Commercial Community-Mixed (CC-M)
- (v) Commercial Community-Auto Oriented (CC-A)
- (w) **Urban Mix (UM)**
- (x) Manufacturing Limited (ML)
- (y) Commercial General-Auto Oriented (CG-A)
- (z) Manufacturing Exclusive (ME)
- (aa) Riverfront Commercial (RF-C)
- (bb) Riverfront Manufacturing (RF-M)
- (cc) Manufacturing General (MG)

**§ 1410-11. Truck Docks; Loading and Service Areas**

Truck docks, loading and service areas are not permitted within 50 feet of residential district boundaries and are not permitted to be used between 10 PM and 7 AM on weekdays and between 11 PM and 7 AM on weekends. These facilities must be located at the side of buildings or in the rear of the site and screened so as not to be visible from residential districts. Where a building abuts a residential district, the preferred location of these facilities is the side away from the district boundary.

**§ 1419-29. Vending Machines and Pay Telephones.**

- (dd) **Location of Vending Machines and Pay Telephones in Residential Districts.** Vending machines or pay telephones may not be located outside any building or accessory building used for residential purposes in a Residential District.
- (ee) Location of Vending Machines in O, C, **UM**, DD, M, RF and IR Districts. Vending machines may not be located:
- (1) Within any required landscaping or bufferyard.
  - (2) So as to obstruct or interfere with pedestrian travel.
  - (3) Within five feet from a crosswalk, display window, building entrance, fire hydrant or other emergency facility.
  - (4) With more than three machines at any location.
  - (5) Closer than 100 feet to another group of vending machines.
- (c) **Appearance:** Vending machines must be maintained in good operating condition and be free from rust and adornments such as graffiti, stickers and posters.

**§ 1421-17. Increased Floor Area Ratio for Structured Parking.**

In the OL, OG, **UM** and IR Districts where part or all of the parking spaces required for OL, OG, **UM** and IR uses are provided within the principal building or within a parking structure attached to the principal building, the maximum floor area ratio specified for the OL, OG, **UM** and IR Districts may be increased by a maximum of 20 percent using the following formula:

A/B times 20 percent, where

A equals the number of parking spaces provided within the principal building or attached parking structure, and

B equals the number of parking spaces required for the OL, OG, **UM** or IR uses.

**Schedule 1423-13-A: Required Buffer Yards**

District of Proposed Use	Adjoining District	Yard Condition	Buffer Required <sup>1</sup>	Type
RM Districts	SF	Side or Rear	A	
O District	SF	Side or Rear no Loading	A	
		Any Yard with Loading	B	
	RM	Side or Rear no Loading	A	
		Any yard with Loading	B	
	Other Districts	Front, Side or Rear	None	
CN-P and CC-P	SF	Side or Rear no Loading	A	
		Any Yard with Loading	A	
	RM	Side or Rear no Loading	A	

District of Proposed Use	Adjoining District	Yard Condition	Buffer Required <sup>1</sup>	Type
		Any Yard with Loading	A	
	Other Districts	Front, Side or Rear	None	
CN-M, CC-M and CC-A	SF	Side or Rear no Loading	B	
		Any Yard with Loading	C	
	RM	Side or Rear no Loading	B	
		Any Yard with Loading	C	
	Other Districts	Front, Side or Rear	None	
CG-A	SF	Side or Rear no Loading	C	
		Any Yard with Loading	D	
	RM	Side or Rear no Loading	C	
		Any Yard with Loading	D	
	Other Districts	Front, Side or Rear	None	
DD Subdistricts	SF	Side or Rear no Loading	C	
		Any Yard with Loading	D	
	RM	Side or Rear no Loading	A	
		Any Yard with Loading	B	
	Other Districts	Front, Side or Rear	None	
UM Districts	RM	Side or Rear	A	
	SF	Side or Rear	A	
M Districts	SF and RM	Side or Rear	D	
		Front No Storage	None	
		Front with Storage	C	
	O and C	Side or Rear	A	
		Front No Storage or Loading	None	
		Front with Storage or Loading	B	
	DD	Side or Rear	A	
		Front No Storage or Loading	None	
		Front with Storage or Loading	B	
	Other Districts	Front, Side or Rear	None	
RF Districts (Except Residential Uses of RF-R District)	SF, RM and Residential Uses of RF-R	Front or Side	D	
	O and C	Front or Side	C	
	DD	Front or Side	C	
	Other Districts	Front or Side	None	

<sup>1</sup>See Schedule 1423-13-B

#### Schedule 1425-19-A: Off-Street Parking and Loading Requirements

Use Classifications	Required Parking (Sq. Ft. of Floor Area)	Loading User Group
<b>Residential Uses</b>		

Use Classifications	Required Parking (Sq. Ft. of Floor Area)	Loading User Group
Bed and breakfast home	2 for every dwelling, plus 1 for every guest room	
Child day care home	No additional spaces required	
Group residential	1 for every 2 residents	
Permanent residential		
Single-family		
SF-4, SF-6, SF-10, SF-20	2 for every unit	
SF-2, RM, O, C, <b>UM</b> , M, RF-R	1 for every unit	
and		
IR		
Attached single-family	1 for every unit	
Rowhouse single-family	1 for every unit	
Two-family	1 for every unit	
Multi-family		
RM2.0, RM1.2, OL	1.5 for every unit	
RM0.7, OG, C, <b>UM</b> , M, RF-R	1 for every unit	
and IR		
Residential care facilities		
Assisted living	1 for every 4 residents	
Developmental disability dwelling	1 for every 4 residents	
Nursing home	1 for every 4 residents	
Special assistance shelters	1 for every 3 employees plus 1 for every facility vehicle	
Transitional housing	1 for every facility plus 1 for every 8 beds	
Transportation facilities		

#### **§ 1425-23. Reduced Parking.**

The Director of Buildings and Inspections may grant a reduction in the number of spaces to less than that specified in Schedule 1425-19-A for the following:

- (ff) **Proximity to Public Parking Facilities.** In the O, C, **UM** and M Districts, where a use is located within 600 feet of a public parking facility, either publicly or privately owned and operated and the facility could provide 50 percent or more of the parking spaces required for the use, the director may approve a 50 percent reduction in the parking requirements for the use. If the reduced requirement results in fewer than five spaces being required, no spaces need be provided.

#### **§ 1427-37. Signs Standards for the C **and UM** Districts.**

Signs in the C District must comply with the following:

(gg) **Maximum Total Sign Area.** The maximum sign area allowed is as follows: (See § 1427-21)

- (1) *CN-P and CC-P Districts:* One square foot for every linear foot of lot frontage on a street per site.
- (2) *CN-M, CC-M **and UM** Districts:* 1.5 square feet for every linear foot of lot frontage on a street per site.
- (3) *CC-A and CG-A Districts:* Two square feet for every linear foot of lot frontage on a street per site.
- (4) *Changeable Copy Signs* are permitted in the CN-M, CC-M, CC-A, and CG-A Districts. They may be constructed as ground, wall, marquee, or canopy signs and are subject to all other size regulations for the particular sign type selected. Only one changeable copy sign per site is permitted. A Changeable Copy Sign may not be changed or rearranged at less than a ten second interval and may not include streaming, animating, or flashing text or images.
- (5) If a site has more than one business occupant, the owner of the property shall determine how the sign area is to be allocated to the occupants. For all buildings, complexes, or sites designed and/or intended for multi-tenant usage, a total sign plan conforming to all the requirements of this Code must be submitted to the Buildings and Inspections Department for review and approval before any sign permit for the complex or an individual tenant will be issued.

For Signs in the **CN-M, CC-M **and UM**** Districts, the following regulations apply:

CN-M, CC-M <b>and UM</b> District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee or Canopy Signs	Awning Signs
<b>Permitted Signs</b>	Yes	Yes	Yes, if no wall, marquee, or canopy sign	Yes, if no projecting, marquee, or canopy sign	Yes, if no wall or projecting sign	Yes
<b>Max. # of Signs</b>	1 per site	Unlimited	1 per street frontage per establishment	1 per street frontage per establishment	1 per street frontage per establishment	1 per establishment
<b>Max. Sign Area</b>	36 sq. ft. per sign face	See §1427-29	28 sq. ft. per sign face	72 sq. ft.	72 sq. ft.	12 sq. ft.
<b>Max. # of Sign Faces Permitted</b>	2	1	2	1	1	1



<b>Max. Sign Height</b>	10 ft.	See §1427-29	See §1427-27	25 ft.	Not more than 2 ft. above marquee or canopy	Letters may not be higher than 12 inches
<b>Max. Sign Width</b>	None	Horizontal limits of the window	See §1427-27	Horizontal limits of the wall	Horizontal limits of the marquee or canopy	Horizontal limits of the awning
<b>Min. Setback from any lot line</b>	One-half the height of the sign	N/A	See §1427-27	N/A	N/A	N/A
<b>Permitted Illumination</b>	External or Internal	External or Internal	External or Internal	External or Internal	External or Internal	None

#### **§ 1447-11. Substitution of a Nonconforming Use.**

The Zoning Hearing Examiner may allow the substitution of a nonconforming use for another nonconforming use permitted in another district as specified in Schedule 1447-11 - Substitution Rights for a Nonconforming Use. Whenever any nonconforming use is changed to a conforming use, such use may not later be changed to a use other than a conforming use.

#### **Schedule 1447-11 - Substitution Rights for a Nonconforming Use**

Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights
SF-20	None <sup>1</sup>	RM0.7	OL	CGA	ML
SF-10	None <sup>1</sup>	OL	OG	DD	None
SF-6	None <sup>1</sup>	OG	CN-P, CN-M	ML	MG
SF-4	None <sup>1</sup>	CN-P	CN-M	MG	None
SF-2	None <sup>1</sup>	CN-M	CC-P	RF-R	RF-C
RMX	RM0.7	CC-P	CC-M	RF-C	RF-M
RM-2.0	RM0.7	CC-M	CC-A	RF-M	None
RM-1.2	OL	CC-A	CG-A	I-R	None
<b>UM</b>	<b>ML</b>				

<sup>1</sup>See § 1447-13

#### **JUSTIFICATION:**

Recently a new Urban Mix zoning district was created. Several sections of the Code need to include regulations for the Urban Mix district and were not addressed when the district was created. The amendments correct this oversight.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendments.

**DISCUSSION**

Ms. Jennifer Walke stated that the new Urban Mix zoning district was adopted by City Council in December 2006. She explained that changes to the rest of the Code were needed to fully incorporate the new district into the Zoning Code. She provided the Planning Commissioners with an amended staff report, which added a proposed addition to the Urban Mix chapter regarding truck and loading dock requirements. It also omitted the proposed changes for fence and razor wire, which are addressed in Item #20.

Mr. Jeff Raser, architect, stated that had worked closely with staff on the new Urban Mix zoning district. He stated that he felt the proposed text amendments created a good balance in the district and that he supported the staff recommendations.

<b>Motion:</b>	Mr. Mooney moved approval of Item #3.
<b>Second:</b>	Mr. Tarbell
<b>Ayes:</b>	Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider
<b>Nays:</b>	None, <b>motion carried</b>

Mr. Faux stated that the remaining Discussion Items on the Agenda are all text amendments. He stated that since the Zoning Code was adopted in 2004, some issues arose with the code. A committee was formed to devise solutions.

Mr. Mooney suggested that the Commissioners hear testimony from all of the speakers present first and then address each item. Mr. Faux agreed.

**DISCUSSION FOR ITEMS #4 - #23**

Ms. Margaret Wuerstle, Chief Planner, presented a brief overview of the staff report for Item #4. She stated that staff receives an average of one to two calls per week from people interested in expanding their Type B (1 – 6 children) Child Care Home to a Type A (7 – 12 children) Child Care Home, which under state regulations is still considered a home child care facility. She explained that most of the callers are in residential areas and do not have the opportunity to request a zone change since their property is typically surrounded by residential zoning and spot zoning is not allowed. She stated that the current Zoning Code only allows child care homes with more than six children in a commercial zoning district. She cited a situation in Madisonville, in which the community supported the expansion of a child care home and staff had to request that City Council pass a notwithstanding ordinance. Ms. Wuerstle explained that there is a

large need for child care in the City and the proposed amendment would create flexibility to allow Type A child care homes in residential zoning districts. The text amendment proposes that child care homes be a conditional use and require a public hearing prior to approval. She stated that the Zoning Text Amendment Committee felt it would be a good change for the Code.

Mr. Faux stated that in the Madisonville case there was overwhelming support of the surrounding property owners and community for the day care in the residential district.

Ms. Wuerstle stated that the proposed text amendment also includes the definition of an Adult Day Care Home, Type A child care home and a Type B child care home.

Mr. Schneider asked if other cities across the country had similar situations in regards to child care homes and if so, how did they address it. Ms. Wuerstle answered that it was common and stated that in New York the child care homes must be allowed by-right in residential districts. She stated that it was common for there to be complaints from neighbors because the care of seven to twelve children really was a commercial use and should be in a commercial district. She explained that the expanded child care homes had the potential to cause a tremendous impact on neighbors depending on location, enrollment, increased traffic and service hours. She added that the committee tried to balance the possible impact on residential neighborhoods with the great need for child care by providing an opportunity for child care providers to apply for a conditional-use permit. The process would allow for community input and the Hearing Examiner would then determine if the use would be appropriate on a case-by-case basis and if there were impacts that could not be mitigated.

Mr. Schneider asked who regulates child care homes. Ms. Wuerstle answered that Type A Child Care Homes are regulated by the State. Type B Child Care Homes are not regulated. She added that representatives from 4C, the local Child Care Resource and Referral Agency, were present and could provide additional information.

Ms. Elaine Ward, Chief Operating Officer for 4C for Children, stated that the smaller Type B child care homes are defined in law but are not licensed or regulated. The Type A, large family child care home is licensed by the State Child Care Licensing and the Cincinnati office does the inspections. The licensing requirements for the Type A child care homes are very strict and allow the provider to care for seven to twelve children at any one time, including their own children under age six. The health and safety requirements for Type A homes are difficult for most homes and as a result, there are only a limited number of Type A providers in the state. She stated that there were approximately ten Type A homes in the fifteen county service region that 4C covers. She said it was possible that zoning had limited the growth of larger child care homes. The expansion to a Type A is usually economically driven and usually occurs in middle-class, lower income neighborhoods populated by service sector workers. Child care homes are less expensive than child care centers and offer more flexibility in scheduling and hours of operation. In addition, many parents of infants and toddlers desire a more home-like atmosphere. Ms. Ward stated that the use of the larger Type A homes does push the

envelope of the traditional use and understands that communities might have some concerns. She said that she felt it was appropriate that neighborhoods would have the opportunity to make their views known in the application process. She stated that she felt that because of health and safety issues, barriers should not be in place to prevent the establishment of Type A child care homes. Child care centers do not meet the needs of many families in the City. She mentioned a recent case where very young children were left home alone while their mother worked and stated that lack of affordable care exists. She stated that her agency wants to uphold health and safety for young children.

Mr. Mooney asked if zoning restrictions around Ohio have limited the number of Type A child care homes. Ms. Ward answered that the main reason was that many providers do not want to care for more than six children and/or their homes would not accommodate the increased number of children. Secondly she said, the requirements are strict and the provider is required to have an employee to assist in the care of the children.

Ms. Ward clarified for Mr. Stiles that the maximum number of children that can be cared for in a home is twelve. Thirteen or more children would require a licensed child care center which is a commercial operation.

Mr. Schneider asked if there was data that suggests that one type of child care is better than the other. Ms. Ward stated that the quality of care that the provider offers was more important than the size of the group or setting. Mr. Schneider asked the difference in cost between child care centers and child care homes. Ms. Ward stated that child care centers cost approximately twice as much or more than child care homes. She stated that young parents may not be able to afford the higher prices.

Mr. Carl Uebelacker, representing the Hyde Park Community Council, stated that the Hyde Park Council unanimously voted to oppose Type A child care homes in residential neighborhoods. He stated that the adult day care definition did not define what elderly means. He also stated that the hours of operation should be defined. In the Type A definition the number of children is limited to seven to twelve children at one time but there was no ceiling on total enrollment. He said that for both Type A and Type B there were no hours of operation listed or age limits for the children. He said that he felt most people would not want to live next door to a Type A child care home and possibly lose their peaceful neighborhood atmosphere. He stated that he had seen problems with traffic associated with the larger Type A child care homes. He went on to say that the Type A homes are businesses and should be restricted to appropriate non-residential districts.

Mr. Schneider asked Mr. Uebelacker that if the Zoning Code provided additional restrictions in regards to lot size, parking and hours of operation, would he feel that Type A child care homes could be located in residential districts. Mr. Uebelacker stated that he felt with some specific restrictions it could work. He stated that the Zoning Code covers every neighborhood not just the ones where the need is most urgent. He said that he felt it would not be appropriate for the entire City. He read the restrictions in the Code for home occupations and stated that the Type A child care homes would create more traffic

than home occupations and therefore should be a commercial use. He passed out four letters from City residents that he received regarding this issue.

Mr. Faux stated that in Madisonville the neighborhood clearly wanted a Type A child care home in their community. He asked Mr. Uebelacker if he had a suggestion for addressing a similar situation in another neighborhood without using a notwithstanding ordinance. He also asked Mr. Uebelacker if his position was that Type A child care homes should be forbidden at all times in residential neighborhoods or given the right definitions and approval process it would be appropriate in some communities. Mr. Uebelacker stated that he felt it would not be acceptable in a residential district and added that there were many districts that allowed Type A's which were in his opinion, commercial uses.

Ms. Geri Kraus, longtime North Avondale resident and Text Amendment Committee member, stated that overall, she agreed with Mr. Uebelacker. She stated that in the Adult Day Care definition in addition to elderly, it referred to functionally impaired adults. She said that she believed this could mean someone in a wheelchair, on drugs or mentally ill. She said she felt that some of those types of adults should not be in single-family residential districts.

Ms. Julia Carney, City Law Department, clarified for Mr. Mooney that the current Zoning Code does not provide for Adult day care. Mr. Mooney asked if there were any districts that permitted Adult Day Care. Mr. Reggie Lyons, of Building and Inspections, stated that if the district specifically addresses Day Care it would be permitted. Otherwise, it would not be permitted and in many instances residents must look outside the City for care.

Ms. Kraus stated that she felt the more diverse neighborhoods would feel a greater impact if Type A child care homes were permitted. She stated that she felt the Zoning Code should preserve the character of residential neighborhoods and prevent incompatible uses. She stated that she felt that day care was a business and qualified for business loans. She explained that the state law was in flux in regards to child care. She added that the Hearing Examiner may impose restrictions but they would not necessarily be enforced. She stated that she has seen many varied instances where the zoning code was not enforced. She said that she felt the use of a notwithstanding ordinance was better than changing the zoning for the entire city. She said that, as a mother and grandmother she felt smaller child care homes were better for babies and toddlers and larger child care centers were best for preschoolers. She stated that she felt that if varied hours are needed an entrepreneur will open a child care center to fill that need. She concluded that Type A child care homes should not be permitted in single-family or multi-family residential zones.

Mr. Marvin Kraus, North Avondale resident, stated that zoning was everything in the City. He stated that he recognized child care is needed in the City. North Avondale has many large older homes on large lots. These large homes are important city assets and need to be preserved. The value of the homes has increased which means the taxes paid

to the City has increased as well. The large older homes also attract new residents, which in the long run increases the estate taxes paid to the City. He stated that he felt the larger child care homes should not be allowed in any residential district. He said there are many large homes that are in other zoning districts that would be perfect for the Type A child care homes.

Ms. Phyllis Schoenberger, of the College Hill Community Council Forum, stated that their board opposed allowing Type A child care homes and adult day care in residential neighborhoods. She provided photos to the Commissioners that showed a former Type B child care home. She described the problems that the community had with that child care homes. She said that she found that it was very difficult to get zoning violations enforced.

Mr. Michael Ramundo, Clifton resident, stated that he felt the City should encourage providers to establish Type A child care homes in buildings that are in appropriate districts on the fringe of residential districts.

Ms. Ward, 4C, reemphasized that, as a point of law, Type A child care must be in the providers home. She said it was usually not feasible or affordable for providers to move to a new home.

Mr. Tarbell stated that he felt the notwithstanding ordinance was worthwhile in the Madisonville case. He went on to say that the Madisonville case was the perfect use of a notwithstanding ordinance. Maybe the day care issue should be handled with notwithstanding ordinances.

Ms. Charlene Morse, Administrator of the North Avondale Neighborhood Association, stated that she gets calls from residents reporting illegal business operations in homes. She stated that Cincinnati's residential districts are fragile and a great asset. She said that she felt that neighbors reporting on each other create uncomfortable situations. She stated that making it a conditional use wouldn't work well. She said that there was the potential for harassment and the possibility of a sexual offender living next door to the child care.

*Mr. Mooney left the meeting at 10:21 a.m.*

Ms. Michelle Baxter, North Avondale resident said that the North Avondale Neighborhood Association unanimously voted against allowing Type A child care homes in the residential districts. She stated that the larger child care homes and adult day care would cause problems and should be in business districts.

Mr. Donald Swain, President of the Paddock Hills Community Council, stated that Type A child care homes should not be allowed in residential districts.

*Mr. Mooney returned to the meeting at 10:26 a.m.*

Dave Zimmerman, Mt. Adams resident, stated that in his experience larger child care operations create inconvenient and often dangerous traffic/parking situations. He stated that these types of situations upset neighbors and create illegal parking issues.

Ms. Dorothy Estes, Madisonville resident, stated that she felt communities should work together to provide the much needed child care in the City. She stated that she enjoys living near a child care home.

Mr. Mooney asked why the adult day care issue had surfaced. Mr. Lyons stated that approximately ten years ago the issue came up because there were residents that needed the service and providers that wanted to care for the adults. The new Zoning Code did not address the issue adequately.

Mr. Mooney stated that in regards to Item #5, he suggested that adult day care and Type A child care homes should not be allowed in the residential districts. He moved to disapprove the staff recommendations for that item. Mr. Schneider seconded his motion.

Mr. Mooney stated that he did not have strong feelings in regards to item #7. Mr. Schneider stated that he felt allowing Type A child care and adult day care in a multi-family residential district would be worse than in a single family district due to limited parking, traffic issues and a more transient population. Mr. Mooney stated that nursing homes and assisted living are permitted in the multi-family district and perhaps would be comparable. Mr. Schneider stated that people living in the nursing and assisted living homes live there and do not create additional traffic and parking problems. Mr. Schneider moved to hold Item #7 to allow staff time to review testimony and make changes. Mr. Mooney seconded.

Mr. Mooney moved to hold item #4 and Mr. Schneider seconded.

Mr. Mooney stated that Item #6 and Items #8 – 23 were technical corrections and moved approval of those items. Mr. Stiles seconded.

**ITEM #4      §1401-01-C2 Child Care Home and §1401-D, D1, D2, D3 Day Care Homes**

*Ms. Margaret Wuerstle, Cheif Planner, presented this item.*

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to §1401-01-C2 Child Day Care Home. The definition of day care home is being amended to be consistent with the State definitions and also to allow for the care of adults in a residential home environment.

**PROPOSED TEXT AMENDMENT:**

~~§ 1401-01-C2. ————— Child Day Care Home.~~

~~“Child care day home” means an establishment located in a dwelling unit where an occupant of the residence provides care and supervision for six or fewer children.~~

**Reorder the “C” section of the definitions to account for deletion of Child Day Care Home.**

**§ 1401-01-D. Day Care Center.**

“Day care center” means an establishment, other than a Day Care Home, licensed by the State of Ohio providing care and supervision for seven or more persons on a less than 24-hour basis. This classification includes nursery schools, preschools, day care centers for children or adults and any other day care facility licensed by the State of Ohio.

**§1401-01-D1. Day Care Home – Adult.**

**“Day care center – adult” means a day care facility located in a permanent residence where an occupant of the residence provides care and supervision for three or fewer elderly and/or functionally impaired adults at one time with no outside employees.**

**§1401-01-D2. Day Care Home – Type A.**

**“Day care home – type A” means a child care facility located in a permanent residence where an occupant of the residence provides care and supervision for seven to twelve children at one time, including children under the age of 6 related to the provider. The provider must be licensed by the State of Ohio Department of Human Services and can have no more than one employee assisting.**

**§1401-01-D3. Day Care Home – Type B.**

**“Day care home – type B” means a child care facility located in a permanent residence where an occupant of the residence provides care and supervision for six or fewer children at one time, including children under the age of 6 related to the provider. No employees are permitted.**

**§ 1401-01-D14 Decision.**

“Decision” means a discretionary action by a decision-making body.



**Reorder the “D” section of the definition section to account for the new “day care home” definitions.**

**JUSTIFICATION:**

These text amendments deal only with the definition section of the Zoning Code. The use schedules will be addressed in a separate amendment. The definition of a Type A and Type B Day Care Home is consistent with Family Child Care Homes regulated by the Ohio Department of Human Services. The new definitions will allow the City to conditionally permit Type A Day Care Homes in residential districts. The Type B Day Care Homes will continue to be permitted by-right in residential districts and Adult Day Care Homes will be added to the use schedules. Additionally, the definitions of the three types of Day Care Homes will provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendments.

**Motion:** Mr. Mooney moved to **hold** Item #4.  
**Second:** Mr. Schneider  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, **motion carried**

**ITEM #5** §1403-05: Use Regulations – Single Family Districts

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1403-05: Use Regulations – Single-family Districts.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1403-05: Use Regulations - Single-family Districts**

Use Classifications	SF-20	SF-10	SF-6	SF-4	SF-2	Additional Regulations
<b><i>Residential Uses</i></b>						
Bed and breakfast home	--	C	C	C	C	See § 1419-09
<u>Day care home - Adult</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<u>Day care home - Type A</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<del>Child day care home</del> <u>Day care home – Type B</u>	L5	L5	L5	L5	L5	
Group residential						
Convents and monasteries	C	C	C	C	C	
Fraternities and sororities	--	--	--	--	--	
Patient family homes	--	--	--	--	--	
Rooming houses	--	--	--	--	--	

Use Classifications	SF-20	SF-10	SF-6	SF-4	SF-2	Additional Regulations
Shared housing for the elderly	--	--	--	L4	L4	
Permanent residential						
Single-family dwelling	P	P	P	P	P	See § 1403-11
Attached single-family dwelling	L14	L14	L14	P	P	See § 1403-11
Two-family	L12	L12	L12	L12	L12	
Multi-family	L12	L12	L12	L12	L12	
Residential care facilities						
Developmental disability dwelling	P	P	P	P	P	

Use Classifications	SF-20	SF-10	SF-6	SF-4	SF-2	Additional Regulations
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<i>Accessory Uses</i>						
Any accessory use not listed below	L9	L9	L9	L9	L9	
Home Occupation	P	P	P	P	P	See § 1419-17
Commercial Vehicle Parking	L6	L6	L6	L6	L6	
Child <del>and</del> Day-care centers	L5,7	L5,7	L5,7	L5,7	L5,7	
Refuse storage areas	P	P	P	P	P	See § 1421-35
Drive Box	L8	L8	L8	L8	L8	
Fences and walls	P	P	P	P	P	See § 1421-33
Exterior lighting	P	P	P	P	P	See § 1421-39
Cemetery, incidental buildings and structures	--	--	--	L10	L10	
Rooming Unit	--	--	L11	L11	L11	

### **JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses. Additionally, the Zoning Code defines “Day Care Center” and lists day care centers as a permitted use in various zoning districts. The amendment under the *Accessory Uses* section of the schedule was a Scribner’s error, which has the unintended consequence of restricting adult day care facilities.

### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved **denial** of Item #5.

**Second:** Mr. Schneider  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, **motion carried**

**ITEM #6** Schedule 1403-05 Use Regulations – Single Family Districts L2 Antenna heights.

**PURPOSE:**

To replace the word phrase “may be” with the word phrase “permitted” and more clearly delineate the location for wireless communication antenna in SF and RF-R zone districts and remove an ambiguous dilemma that would allow for an interpretation.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1403-05: Use Regulations - Single-family Districts**

***Specific Limitations***

- |   |   |
|---|---|
| <p>L1 Only expansion of existing cemeteries allowed with a conditional use approval.</p> <p>L3 Enclosures for food, small animals and commercial sales must be set back no less than 100 feet from lot lines.</p> <p>L5 Fencing, a minimum of four feet in height must be provided for purposes of securing outdoor play areas which must be located in the rear yard only.</p> | <p>L2 Antenna height may not exceed 20 feet; greater height requires a conditional use approval. The antenna may <u>only</u> be attached to an <u>permitted</u> agricultural, public or semi-public or public utility building or structure.</p> <p>L4 The minimum lot area for every resident is 800 square feet and the minimum living area for every resident is 250 square feet.</p> <p>L6 One commercial vehicle completely enclosed in a garage may be parked or stored on the lot with the following exceptions:</p> <ul style="list-style-type: none"> <li>a. An unlimited number of commercial vehicles conveying the necessary tools, materials and equipment to a premises where labor using such tools, materials and equipment is to be performed during actual time of parking.</li> <li>b. One commercial vehicle with current license owned by a resident of the residential property on which it is stored or parked not to exceed two tons in capacity.</li> <li>c. Recreational vehicles, watercraft and personal trailers may be parked on the</li> </ul> |
|---|---|

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***Specific Limitations***

lot beyond the front yard.

- |   |   |
|---|---|
| L7 Only if accessory to a public or semi-public use.  | L8 Accessory to a public or semi-public use, provided the drive-box is at least 100 feet from any property used for residential purposes.   |
| L9 Accessory uses determined by the Director of Buildings and Inspections to be customarily incidental to a use of the district are permitted. All others require conditional use approval. | L10 Mausoleums, columbaria and other incidental buildings and structures within and accessory to cemeteries, may be no less than 100 feet from abutting properties in the residential district and may not exceed the height limitation for principal buildings of the district in which it is located. |
| L11 No more than two rooming units may be rented or leased in a single-family dwelling.   | L12 This use must be legally established prior to the effective date of this Zoning Code. The use has the rights of Chapter 1447, Nonconforming Uses and Structures except for the provisions of § 1447-09 Expansion of Nonconforming Use and § 1447-11 Substitution of a Nonconforming Use.            |
| L13 Publicly owned or operated park and recreation facilities are permitted. All park and recreation facilities, private or non-profit, require a conditional use approval.                 | L14 Attached single-family is only permitted as part of a cluster housing development. See § 1403-13.   |

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**JUSTIFICATION:**

The amendment makes this section consistent with our intent to not have wireless communication antenna on every single-family building. This is a limitation that specifies the location of antenna on agricultural, public or semi-public utility building or structure. An example would be a water tower or a public park structure or city maintenance facility. Without this being a limitation the location of antenna would be a permitted use on any residential building or structure and our intent was not to have wireless communication antenna on every single-family building. This is a carry over from the previous code pre-2004 with some difference in word choices. In the current code the word phrase "may be" was inserted. In the previous code wireless communication antenna were "attached to permitted agricultural, public or semi-public

utility building or structure". The previous code's use of the word "permitted" made clear that only those buildings or structures were allowed to have wireless communication antenna. Nonconforming use buildings or structures were not permitted to have wireless communication antenna in the previous code. In the current code, use of the word phrase "may be" creates an ambiguous dilemma that would allow for an interpretation and potentially permitting wireless communication antenna on nonconforming buildings and structures or other buildings or structures. *The Telecommunications Act (1996, I believe) severely limits our ability to deny the provision of wireless communication services. The opportunity for conditional use in regards to wireless communication antenna may be an alternative in this case so the government doesn't say we're violating their rules.*

### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

### **ITEM #7      §1405-05: Use Regulations – Residential Multi-family Districts**

### **PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Use Schedule 1405-05: Use Regulations – Residential Multi-family Districts.

### **PROPOSED TEXT AMENDMENT:**

### **Schedule 1405-05: Use Regulations - Residential Multi-family Districts**

Use Classifications	RMX	RM-2.0	RM-1.2	RM-0.7	Additional Regulations
<b><i>Residential Uses</i></b>					
Bed and breakfast home	P	P	P	P	See § 1419-09
<u>Day care home - Adult</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	
<u>Day care home - Type A</u>	<u>C</u>	<u>C</u>	<u>L4</u>	<u>L4</u>	
<del>Child day care home</del> <u>Day care home – Type B</u>	L4	L4	L4	L4	
<b>Group Residential</b>					
Congregate housing	--	--	P	P	
Convents and monasteries	P	P	P	P	
Fraternities, sororities, dormitories	--	--	C	P	
Patient family homes	--	--	P	P	
Rooming houses	--	--	--	L2	
Shared housing for the elderly	L1	L1	L1	L1	

Use Classifications	RMX	RM-2.0	RM-1.2	RM-0.7	Additional Regulations
Permanent residential					
Single-family dwelling	P	P	P	P	See § 1403-11
Attached single-family dwelling	L15	P	P	P	See § 1403-11
Rowhouse, single-family dwelling	L15	P	P	P	
Two-family dwelling	P	P	P	P	
Three-family dwelling	P	P	P	P	
Multi-family dwelling	L3	P	P	P	
Residential care facilities					
Assisted living	C	C	P	P	
Developmental disability dwelling	P	P	P	P	
Nursing home	C	C	P	P	
Special assistance shelter	--	--	--	C	
Transitional housing					
Programs 1-4	--	P	P	P	
Programs 5-6	--	--	--	--	

<b><i>Accessory Uses</i></b>					
Any accessory use not listed below	L8	L8	L8	L8	
Home occupations	P	P	P	P	See § 1419-17
Commercial vehicle parking	L11	L11	L11	L11	
<u>Day care center</u>	<u>L4.</u> <u>L17</u>	<u>L4.</u> <u>L17</u>	<u>L4.L17</u>	<u>L4.</u> <u>L17</u>	
Rooming unit	L10	L10	L10	L10	
Transitional housing	L13	L13	L13	L13	
<b><i>Specific Limitations</i></b>					

L11One commercial vehicle completely enclosed in a garage may be parked or stored on the lot with the following exceptions:

- An unlimited number of commercial vehicles conveying the necessary tools, materials and equipment to a premises where labor using such tools, materials and equipment is to be performed during actual time of parking.
- One commercial vehicle with current license owned by a resident of the residential property on which it is stored or parked not to exceed two tons

L12Accessory to a public or semi-public use, provided the drive box is at least 100 feet from any property used for residential purposes.

in capacity.

- c. Recreational vehicles, watercraft and personal trailers may be parked on the lot beyond the front yard.

L13 Limited to transitional housing conforming to Paragraph 1401-03-T(c)(5) as an accessory use to public and semi-public uses. The use requires conditional use approval.

L14 Limited to City Council designated Live/Work Districts

L15 Attached single-family dwellings and rowhouse single-family dwellings of four or more units require conditional use approval.

L16 Permitted on the ground floor in multi-family buildings with a minimum of 50 dwelling units, occupying 1200 square feet or less and having a separate exterior entrance; structures with less than 50 dwelling units require a conditional use approval; food markets occupying more than 1200 square feet require a conditional use approval.

L17 Only if accessory to a public or semi-public use

(\*revised 7/22/05 by Ordinance #260-2005)

#### **JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses. Day care centers are currently not a permitted accessory use (with limitations) in multi-family districts although they are in single-family districts. The new language allows day care centers as an accessory use to a public or semi-public use in the multi-family districts.

#### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendments.

**Motion:** Mr. Schneider moved to **hold** Item #7.  
**Second:** Mr. Mooney

**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, **motion carried**

**ITEM #8** Schedule 1405-07 Development Regulations – Residential Multi-family Districts

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on text amendments to correct typographical errors in the section of the Zoning Code that deals with Vehicular Accommodation, Driveways and Parking. Within several chapters of the Zoning Code, this section references incorrect sections for additional Parking and Loading Regulations.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1405-07 Development regulations – Residential Multi-family Districts**

Regulations	RM X	RM 2.0	RM 1.2	RM 0.7	Additional Regulations
<b><i>Vehicle Accommodation Driveways and Parking</i></b>					
Location of parking	Yes	Yes	Yes	Yes	See § 1425-47 <sup>15</sup>
Parking lot landscaping	Yes	Yes	Yes	Yes	See § 1425-34 <sup>29</sup>
Parking lot screening	Yes	Yes	Yes	Yes	See § 1425-29 <sup>27</sup>
Truck docks; loading and service areas	Yes	Yes	Yes	Yes	See § 1405-09
<b><i>Other Regulations</i></b>					
Buffering along district boundaries	Yes	Yes	Yes	Yes	See § 1423-13
Accessory structures	See Chapter 1421				
General site standards	See Chapter 1421				
Landscaping and buffer yards	See Chapter 1423				
Nonconforming uses and structures	See Chapter 1447				
Off-street parking and loading	See Chapter 1425				
Signs	See Chapter 1427				
Additional development regulations	See Chapter 1419				

<sup>1</sup>Additional 1-foot of setback for each 1-foot of building height above 35 feet.

<sup>2</sup>Additional 1-foot of setback for each five feet of building height above 35 feet.

<sup>3</sup>Addition 0.5-foot of minimum side yard and 1-foot sum of side yard setback for each 1-foot of building height above 35 feet.

<sup>4</sup>Additional 1-foot of minimum side yard and 2-foot sum of side yard setback for each five feet of building height above 35 feet.

**Schedule 1407-07: Development Regulations – Office Districts**

Rear 20 20 See § 1407-45<sup>13</sup>



<b><i>Vehicle Accommodation - Driveways and Parking</i></b>			
Driveway restrictions	Yes	Yes	See § 1407-17 <sup>15</sup>
Location of parking	Yes	Yes	See § 1425-17 <sup>15</sup>
Parking lot landscaping	Yes	Yes	See § 1425-31 <sup>29</sup>
Truck docks; loading and service areas	Yes	Yes	See § 1407-19 <sup>17</sup>

#### **Schedule 1409-09: Development Regulations – Commercial Districts**

<b><i>Vehicle Accommodation - Driveways and Parking</i></b>							
Driveway restrictions	Yes	Yes	Yes	Yes	Yes	Yes	See § 1409-11
Drive-through facilities	Yes	Yes	Yes	Yes	Yes	Yes	See § 1409-13 and 1419-13
Location of parking	Yes	Yes	Yes	Yes	No	No	See § 1409-25
Parking lot landscaping	Yes	Yes	Yes	Yes	Yes	Yes	See § 1425-31 <sup>29</sup>
Truck docks; loading and service areas	Yes	Yes	Yes	Yes	Yes	Yes	See § 1409-15

#### **Schedule 1413-07: Development Regulations – Manufacturing Districts**

<b><i>Vehicle Accommodation – Driveways and Parking</i></b>			
Driveway Restrictions	Yes	Yes	See § 1413-09
Parking Lot Landscaping	Yes	Yes	See § 1425-31 <sup>29</sup>
Truck Docks; Loading and Service Areas	Yes	Yes	See § 1413-11

#### **Schedule 1415-09: Development Regulations – Riverfront Districts**

<b><i>Vehicle Accommodation – Driveways and Parking</i></b>			
Parking lot landscaping	Yes	Yes	See § 1425-31 <sup>29</sup>
Truck docks; loading and service areas	Yes	Yes	See § 1415-15

#### **Schedule 1417-07: Development Regulations – Institutional-Residential**

<b><i>Vehicle Accommodation - Driveways and Parking</i></b>		
Parking lot landscaping	Yes	See § 1425-31 <sup>29</sup>
Truck docks; loading and service areas	Yes	See § 1417-09

#### **JUSTIFICATION:**

These are typographical errors.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendments.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #9** Schedule 1407-05: Use Regulations – Office Districts – Day Care Homes

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Use Schedule 1407-05: Use Regulations – Office Districts.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1407-05: Use Regulations - Office Districts**

Use Classifications	OL	OG	Additional Regulations
<b><i>Residential Uses</i></b>			
Bed and breakfast home	P	P	See § 1419-09
<u>Day care home - Adult</u>	<u>P</u>	<u>P</u>	
<u>Day care home - Type A</u>	<u>L8</u>	<u>L8</u>	
<del>Child day care home</del> <u>Day care home – Type B</u>	L8	L8	
Child day care home	L8	L8	
Group residential			
Congregate housing	P	P	
Convents and monasteries	P	P	
Fraternities and sororities	P	P	
Patient family homes	P	P	
Rooming house	--	L7	
Shared housing for elderly	P	P	
Permanent residential			
Single-family dwelling	P	L1	
Attached single-family dwelling	P	L1	
Rowhouse, single-family dwelling	P	--	
Two-family dwelling	P	L1	
Multi-family dwelling	P	L1	
Transitional housing			
Programs 1-4	P	P	
Program 5	--	P	
Program 6	--	C	


**JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendments.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #10** Schedule 1407-05: Use Regulations – Office - Residential Uses on Ground Floor

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1407-05: Use Regulations – Office District relating to the L1 limitation.

**PROPOSED TEXT AMENDMENT:****Schedule 1407-05: Use Regulations - Office Districts**

Use Classifications	OL	OG	Additional Regulations
<b><i>Residential Uses</i></b>			
Bed and breakfast home	P	P	See § 1419-09
Child day care home	L8	L8	
Group residential			
Congregate housing	P	P	
Convents and monasteries	P	P	
Fraternities and sororities	P	P	
Patient family homes	P	P	
Rooming house	--	L7	
Shared housing for elderly	P	P	
Permanent residential			
Single-family dwelling	P	L1	
Attached single-family dwelling	P	L1	
Rowhouse, single-family dwelling	P	--	
Two-family dwelling	P	L1	
Multi-family dwelling	P	L1	
Transitional housing			
Programs 1-4	P	P	

Use Classifications	OL	OG	Additional Regulations
Program 5	--	P	
Program 6	--	C	

#### ***Specific Limitations***

L1 For new construction, permitted only above the ground floor in mixed-use building on arterial streets. Modification requires conditional use approval pursuant to the procedures and criteria of Chapter 1445, Variance, Special Exceptions, and Conditional Uses. . Pre-existing permanent residential uses are permitted.

L2 Not to exceed 3,000 square feet in floor area.

L3 Permitted only on arterial streets.

L4 Permitted on the ground floor occupying less than 2,500 sq. ft.; more space requires a conditional use approval.

#### **JUSTIFICATION:**

Adding the conditional use language provides for greater flexibility. Residential uses on the first floor of a building in the Office (OG) zoning districts cannot be considered without this language added to the L2 limitation. The Hearing Examiner and the Zoning Staff have encountered residential proposals that may have been appropriate in the OG district but could not be considered. Adding the conditional use option provides for a case-by-case review and public input through the hearing process for such development proposals.

#### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #11** Schedule 1409-07: Use regulations – Commercial Subdistricts – Day Care

#### **PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1409-07: Use Regulations – Single-family Districts.

## **PROPOSED TEXT AMENDMENT:**

### **Schedule 1409-07: Use Regulations - Commercial Subdistricts**

Use Classifications	CN-P	CN-M	CC-P	CC-M	CC-A	CG-A	Additional Regulations
<b><i>Residential Uses</i></b>							
Bed and breakfast home	P	P	P	P	--	--	See § 1419-09
<u>Day care home - Adult</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>--</u>	
<u>Day care home - Type A</u>	<u>L3</u>	<u>L3</u>	<u>L3</u>	<u>L3</u>	<u>L3</u>	<u>--</u>	
<u>Child-day care home - Type B</u>	<u>L3</u>	<u>L3</u>	<u>L3</u>	<u>L3</u>	<u>--</u>	<u>--</u>	
Group residential							
Congregate housing	P	P	P	P	P	P	
Convents & monasteries	P	P	P	P	--	--	
Dormitories	P	P	P	P	P	--	
Fraternities & sororities	P	P	P	P	--	--	
Patient family homes	P	P	P	P	--	--	
Rooming houses	L1	L1	L1	L1	--	--	
Shared housing for elderly	P	P	P	P	--	--	
Permanent residential							
Single-family dwelling	P	P	P	L2	L2	--	
Attached single-family dwelling	P	P	P	--	--	--	
Two-family dwelling	P	P	P	L2	L2	--	
Multi-family dwelling	P	P	P	L2	L2	--	
Residential care facilities							
Assisted living	P	P	P	P	P	--	
Developmental disability dwelling	P	P	P	L2	L2	--	
Nursing home	P	P	P	P	P	--	
Special assistance shelter	C	C	C	C	C	C	
Transitional housing							
Programs 1-4	P	P	P	L2	L2	--	
Program 5	--	--	--	P	P	P	
Program 6	--	--	--	C	P	P	

## **JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care

Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #12** Schedule 1409-07: Use Regulations – Commercial Subdistricts L2 Residential Uses on Ground Floor

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1409-07: Use Regulations – Commercial Subdistricts relating to the L2 limitation.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1409-07: Use Regulations - Commercial Subdistricts**

Use Classifications	CN-P	CN-M	CC-P	CC-M	CC-A	CG-A	Additional Regulations
<b><i>Residential Uses</i></b>							
Bed and breakfast home	P	P	P	P	--	--	See § 1419-09
Child day care home	L3	L3	L3	L3	--	--	
Group residential							
Congregate housing	P	P	P	P	P	P	
Convents & monasteries	P	P	P	P	--	--	
Dormitories	P	P	P	P	P	--	
Fraternities & sororities	P	P	P	P	--	--	
Patient family homes	P	P	P	P	--	--	
Rooming houses	L1	L1	L1	L1	--	--	
Shared housing for elderly	P	P	P	P	--	--	
<b>Permanent residential</b>							
Single-family dwelling	P	P	P	L2	L2	--	
Attached single-family dwelling	P	P	P	--	--	--	
Two-family dwelling	P	P	P	L2	L2	--	
Multi-family dwelling	P	P	P	L2	L2	--	

Use Classifications	CN-P	CN-M	CC-P	CC-M	CC-A	CG-A	Additional Regulations
Residential care facilities							
Assisted living	P	P	P	P	P	--	
Developmental disability dwelling	P	P	P	L2	L2	--	
Nursing home	P	P	P	P	P	--	
Special assistance shelter	C	C	C	C	C	C	
Transitional housing							
Programs 1-4	P	P	P	L2	L2	--	
Program 5	--	--	--	P	P	P	
Program 6	--	--	--	C	P	P	

### ***Specific Limitations***

- L1 Only rooming houses licensed pursuant to Chapter 855. Rooming Houses of the Municipal Code; the maximum number of rooming units is five, and a separate entrance for access to rooming units must be provided. The minimum rental is seven days. See § 1421-43.
- L2 Permitted only above the ground floor in a mixed use building. Modification requires conditional use approval pursuant to the procedures and criteria of Chapter 1445, Variance, Special Exceptions, and Conditional Uses.
- L3 Fencing, a minimum of four feet in height must be provided for purposes of securing outdoor play areas which must be located in the rear yard only.
- L4 Permitted, provided that there are no outdoor exercise areas, yards or pens and mechanical ventilation and air filter devices must be provided.

### **JUSTIFICATION:**

Adding the conditional use language provides for greater flexibility. Residential uses on the first floor of a building in the CC-M and CC-A zoning districts cannot be considered without this language added to the L2 limitation. The Hearing Examiner and the Zoning Staff have encountered residential proposals that may have been appropriate in the CC-M and CC-A districts but could not be considered. Adding the conditional use option provides for a case-by-case review and public input through the hearing process for such development proposals.

### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

- Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.
- Second:** Mr. Stiles
- Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider
- Nays:** None, motion carried

**ITEM #13** Schedule 1409-07 Use Regulations – Commercial Subdistricts –Artisan

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) for a text amendment to §1409-07 *Use Regulations – Commercial Subdistricts*.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1409-07: Use Regulations - Commercial Subdistricts**

Use Classifications	CN-P	CN-M	CC-P	CC-M	CC-A	CG-A	Additional Regulations
<b><i>Industrial Uses</i></b>							
Production Industry							
Artisan	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	P	P	
Limited	--	--	--	--	P	P	
Warehousing and storage							
Contractor storage	--	--	--	L5	L5	P	
Indoor storage	--	--	--	--	P	P	
Wholesaling and distribution	--	--	--	--	P	P	

**JUSTIFICATION:**

An Artisan Use is defined as: establishments primarily engaged in on-site production of goods by hand manufacturing, involving the use of hand tools and small-scale equipment. Artisans such as woodworkers, furniture makers, artists, potters, and other small-scale establishments often seek lower-cost commercial space in neighborhoods with historic character. These two attributes, along with ease of accessibility, make many of Cincinnati's Neighborhood Business Districts (NBDs) attractive to Artisans. Many communities actively seek out Artisan uses and other creative trades because they can be an important element in the revitalization of an NBD.

Currently, the Code allows Artisan uses only in the higher-intensity commercial areas, CC-A Commercial Community – Auto and CG-A Commercial General – Auto. These zones are often incompatible with the character and uses of traditional NBDs. Many communities want to welcome Artisan uses into their NBD, but do not want to subject their NBD to a zoning classification that does not protect neighborhood character.

If Artisan uses are Conditional in the CN-P, CN-M, CC-P, and CC-M zones, this will allow communities to consider Artisan uses on a case-by-case basis. This change will provide neighborhoods with protection from Artisan uses that may be incompatible for a specific location, yet it will give communities the option of welcoming these much sought-after uses into their NBDs and other commercial areas.

**RECOMMENDATION:**



The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #14** Schedule 1411-05: Use regulations –Downtown Development – Day Care

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1411-05: Use Regulations- Downtown Development Use Subdistricts.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1411-05: Use Regulations–Downtown Development Use Subdistricts**

Use Classifications	DD-A	DD-B	DD-C	DD-D	Additional Regulations
<b><i>Residential Uses</i></b>					
Bed and breakfast home	P	P	P	P	See § 1419-09
<u>Day care home - Adult</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Day care home - Type A</u>	<u>L12</u>	<u>L12</u>	<u>L12</u>	<u>L12</u>	
<del>Child day care home</del> <u>Day care home – Type B</u>	L12	L12	L12	L12	
Group residential					
Convents and monasteries	L1	L1	L1	L1	
Fraternities and sororities	L1	L1	L1	L1	
Patient family homes	L1	L1	L1	L1	
Rooming houses	L2	L2	L2	L2	
Shared housing for elderly	L1	L1	L1	L1	
Permanent residential					
Single-family dwelling	P	P	P	P	
Attached single-family dwelling	P	P	P	P	
Single-family rowhouse	P	P	P	P	
Multi-family dwelling	P	P	P	P	
Two-family dwelling	P	P	P	P	
Residential care facilities					
Assisted living	--	P	P	--	
Developmental disability dwelling	P	P	P	P	
Nursing home	--	P	P	--	
Special assistance shelter	C	C	C	C	
Transitional housing					

Use Classifications	DD-A	DD-B	DD-C	DD-D	Additional Regulations
Programs 1-5	P	P	P	P	
Program 6	L11	L11	L11	L11	

### **JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #15** Schedule 1413-05: Use regulations – Manufacturing Districts – Day Care

### **PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1413-05: Use Regulations – Manufacturing Districts.

### **PROPOSED TEXT AMENDMENT:**

#### **Schedule 1413-05: Use Regulations – Manufacturing Districts**

Use Classifications	ML	MG	ME	Additional Regulations
<b><i>Residential Uses</i></b>				
<u>Day care home - Adult</u>	<u>P</u>	<u>--</u>	<u>--</u>	
<u>Day care home - Type A</u>	<u>L9</u>	<u>--</u>	<u>--</u>	
<del>Child day care home</del> <u>Day care home – Type B</u>	L9	--	--	
Group residential	L1	--	--	
Permanent residential				
Single-family dwelling	L1	--	--	
Attached single-family dwelling	L1	--	--	
Two-family dwelling	L1	--	--	
Multi-family dwelling	L1	--	--	
Residential care facilities				

Use Classifications	ML	MG	ME	Additional Regulations
Developmental disability dwelling	P	--	--	
Special assistance shelter	C	--	--	

### **JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

### **ITEM #16** Schedule 1415-05: Use Regulations – Riverfront Districts

### **PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1415-05: Use Regulations – Riverfront Districts.

### **PROPOSED TEXT AMENDMENT:**

### **Schedule 1415-05: Use Regulations – Riverfront Districts**

Use Classifications	RF-R	RF-C	RF-M	Additional Regulations
<b><i>Residential Uses</i></b>				
Bed and breakfast home	P	--	--	See § 1419-09
<del>Day care home - Adult</del>	<del>C</del>	--	--	
<del>Day care home - Type A</del>	<del>C</del>	--	--	
<del>Child day care home - Type B</del>	L8	--	--	
Child day care home	L8	--	--	
Permanent residential				
Single-family dwelling	P	--	--	
Attached single-family dwelling	P	--	--	
Rowhouse single-family dwelling	P	--	--	
Two-family dwelling	P	--	--	
Multi-family dwelling	P	--	--	

**JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #17** Schedule 1417-03: Use regulations – Institutional Residential Districts**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1417-03: Use Regulations – Institutional-Residential Districts.

**PROPOSED TEXT AMENDMENT:****Schedule 1417-03: Use Regulations – Institutional-Residential Districts**

Use Classifications	IR	Additional Regulations
<b><i>Residential Uses</i></b>		
Bed and breakfast home	P	See § 1419-09
<u>Day care home - Adult</u>	<u>P</u>	
<u>Day care home - Type A</u>	<u>L6</u>	
<del>Child day care home</del> <u>Day care home – Type B</u>	L6	
Group residential	P	
Permanent residential		
Single-family dwelling	P	
Attached single-family dwelling	P	
Two-family dwelling	P	
Multi-family dwelling	P	
Residential care facilities		
Assisted living	P	
Developmental disability dwelling	P	
Nursing home	P	
Transitional housing		
Programs 1-4	P	

Use Classifications Programs 5,6	IR C	Additional Regulations
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**JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #18** Schedule 1418-05: Use Regulations – Urban Mix District – Day Care

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to Schedule 1418-05: Use Regulations – Urban Mix District.

**PROPOSED TEXT AMENDMENT:**

**Schedule 1418-05: Use Regulations – Urban Mix District**

**Use Classifications UM Additional Regulations**

***Residential Uses***

Bed and breakfast home P

Day care home - Adult

P

Day care home - Type A

L2

~~Child day care home~~ Day care home – Type B

L2

Group residential

Congregate housing P

Convents and monasteries L7

Fraternities, sororities, dormitories L7

Patient family homes L7

Rooming houses L1

Group Residential

Shared housing for the elderly L7

**JUSTIFICATION:**

New definitions have been created for Adult Day Care Home, Type A Day Care Home, and Type B Day Care Home. The Use Schedules in the various zoning districts are being updated to reflect the new definitions. The definitions of the three types of Day Care Homes provide the flexibility required to address a need in our communities for both our young and aging populations while protecting residential neighborhoods from incompatible uses.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

<b>Motion:</b>	Mr. Mooney moved approval of Items #6 and #8 - #23.
<b>Second:</b>	Mr. Stiles
<b>Ayes:</b>	Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider
<b>Nays:</b>	None, motion carried

**ITEM #19**     §1421-23 Side Yard Modifications

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to a correct typographical error in §1421-23 (b).

**PROPOSED TEXT AMENDMENT:**

**§ 1421-23.                      Side Yard Modifications.**

The side yard requirements specified for principal buildings are subject to the following:

- (hh) **Side Yard of a Corner Lot.** A corner side yard along the side street of a corner lot in a residential district, which adjoins in the rear, either directly or across an alley, the side lot line of another lot in a residential district must provide a width of no less than one-half the required front yard for the principal building on the corner lot.
- (ii) **Irregular Side Yards.** Where the side lot line is irregular or where the side lot line is not parallel to the building line, the average side yard width must conform to the side yard requirements, provided the point of least width is no less than five feet wide or the point of least width is no less than one-half the side yard requirement, whichever is greater.

**JUSTIFICATION:**

The amendment corrects a typographical error.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**ITEM #19A §1421-23 Increased Side Yard Modifications**

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to §1421-23(c) Increased Side Yards. Amending this section of the Zoning Code would make it consistent with §1421-21(c) Increased Front Yard.

**PROPOSED TEXT AMENDMENT:**

**§ 1421-23. Side Yard Modifications.**

The side yard requirements specified for principal buildings are subject to the following:

- (jj) **Side Yard of a Corner Lot.** A corner side yard along the side street of a corner lot in a residential district, which adjoins in the rear, either directly or across an alley, the side lot line of another lot in a residential district must provide a width of no less than one-half the required front yard for the principal building on the corner lot.
- (kk) **Irregular Side Yards.** Where the side lot line is irregular or where the side lot line is not parallel to the building line, the average side yard width must conform to the side yard requirements, provided the point of least width is no less than five feet wide or the point of least width is no less than one-half the side yard requirement, whichever is greater.
- (ll) **Increased Side Yards.** In addition to the side yard requirements set forth for the SF, RM and O Districts and after adjusted by other provisions of this section, the required side yard is increased by one foot for each ten feet or fraction thereof by which the depth of the building exceeds 60 feet.

**JUSTIFICATION:**

Amending this section of the Zoning Code would make it consistent with §1421-21(c) Increased Front Yard.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles

**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #20** §1421-33 Fences and Walls

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to §1421-33 (f) Electrical Fences and Razor Wire.

**PROPOSED TEXT AMENDMENT:**

**§1421-33 Fences and Walls**

- (f) **Electrical Fences and Razor Wire.** Electrical, barbed and razor wire fences are prohibited in SF, ~~RMX~~, RM, O, DD and IR Districts and are an accessory conditional use in C, M and RF Districts and prohibited in all other districts.

**JUSTIFICATION:**

The RMX district is a sub-section of the RM districts. However, adding it to this section of the code makes it clear to the public that electrical fences and razor wire are prohibited in the RMX district. The Zoning Text Amendment Committee reviewed the initial change and felt that the above language was more appropriate.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #21** §1425-03 Requirements for Off-Street Parking and Loading

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to §1425-19. Off-Street Parking and Loading Requirements as it pertains to the 2000 square foot exemption from the parking requirements.

**PROPOSED TEXT AMENDMENT:**

**§ 1425-03. Requirements for Off-Street Parking and Loading.**



~~New~~ Off-street parking and loading spaces must be provided for uses that are established, enlarged, extended or moved onto ~~a new~~ any lot after the effective date of these zoning regulations, or of a subsequent rezoning or other amendment establishing or increasing parking or loading requirements for the uses. When an expanded use results in an increase of more than ten percent in the number of currently required parking spaces, additional parking must be provided for the additional space based on the standards of this chapter.

## **§ 1425-19. Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements must be provided in accordance with Schedules 1425-19-A and 1425-19-B. Unless a use is specifically noted under the appropriate use classification heading, the parking and loading requirements apply uniformly to all uses within a use classification. Off-street parking and loading requirements for uses in the DD Districts are subject to the provisions of Chapter 1411, Downtown Development Districts.

Off-street parking and loading facilities must be made permanently available to the use served. Where the use is undetermined or the parking requirement is not established in Schedule 1425-19-A, the Director of Buildings and Inspections must determine the probable use and number of spaces required.

Commercial uses located in Commercial, Office, and Manufacturing zoning districts are entitled to an exemption from the parking requirements as follows:

- (a) **Commercial Uses in the CN-P and CC-P Zoning Districts.** The first 2000 square feet of gross floor area of existing and new commercial uses is exempted from the off-street parking requirements.
- (b) **Commercial Uses in the CN-M, CC-M, OL, OG, IR, RF-C and ML Zoning Districts.** The first 2000 square feet of gross floor area of existing commercial uses is exempted from the off-street parking requirements. New commercial uses are not exempted from the parking requirements.
- (c) **Commercial Uses in the CC-A, CG-A, MG, and RF-M Zoning Districts.** Commercial uses are not exempted from the parking requirements.

### **Schedule 1425-19-A: Off-Street Parking and Loading Requirements**

<i>Commercial Uses</i>	
<u>First 2000 square feet of Gross Floor Area of existing and new commercial uses in the CN-P and CC-P districts</u>	<u>Exempt – No spaces required</u>
<u>First 2000 square feet of Gross Floor Area of existing commercial uses in the CN-M, CC-M, OL, OG, IR, RF-C</u>	<u>Exempt – No spaces required</u>

<u>and ML districts.</u>		
<u>New commercial uses in the CC-M, CC-A, CG-A, OL, OG, IR, RF-C, ML, MG and RF-M districts</u>		<u>As required below</u>
<u>Existing commercial uses in the CC-A and CG-A districts</u>		<u>As required below</u>
Under 2,000 square feet of floor area	No spaces required	
2,000 square feet of floor area or more	As required below	
Ambulance services	1 for every 250 sq. ft.	
Animal services	1 for every 400 sq. ft.	
Banks and financial institutions	1 for every 200 sq. ft. of first floor area, plus 1 for every 250 sq. ft. of other floor area	
Bed and breakfast inns	1 for every facility plus 1 for every guest room	
Building materials and services	1 for every 400 sq. ft.	4
Building maintenance services	1 for every 400 sq. ft.	
Business services	1 for every 250 sq. ft.	
Commercial meeting facility	1 for every 50 sq. ft.	3
Eating and drinking establishments		
Drinking establishments	1 for every 150 sq. ft.	
Restaurants, full service	1 for every 150 sq. ft.	
Restaurants, limited service	1 for every 150 sq. ft.	
Outdoor areas of eating and drinking establishments	1 for every 300 sq.ft. (*Revised 5/19/06 Ordinance #0096-2006)	
Food markets	1 for every 150 sq. ft. where it exceeds 2,000 sq. ft.	
Food preparation	1 for every 750 sq. ft.	
Funeral and interment services	1 for every 50 sq. ft. used for assembly	
Garden supply stores and nurseries	1 for every 400 sq. ft.	
Hotels and commercial lodging	1 for every guest room	3
Loft dwelling units	1 for every unit	
Laboratories, commercial	1 for every 250 sq. ft.	
Maintenance and repair services	1 for every 400 sq. ft.	
Medical services and clinics	1 for every 150 sq. ft.	

### **JUSTIFICATION:**

On April 4, 2005 the Planning Commission made recommendations to City Council on text changes to the Zoning Code regarding the 2000 square foot parking exemption for commercial uses. The Planning Commission recommended that buildings with a floor area of less than 2000 square feet be exempted from the parking requirements and that buildings with more than 2000 square feet of floor area receive no exemption. On December 12, 2005 City Council indefinitely postponed all text amendments dealing with

this issue. The City Council directed staff to draft new text amendments that would clearly state that the 2000 square foot exemption from the parking requirements is for the first 2000 square feet of all commercial uses as stated in the original motion passed by City Council on January 14, 2004.

The City Planning Commission approved a text amendment on April 7, 2006 recommending that the first 2000 square feet of existing buildings be exempt from the parking requirements. The Commission felt that there might be unintended consequences if the exemption was applied to newly constructed buildings. The example cited was the proposed Dunkin Donuts/Baskin Robbins in Mt. Washington that would have required only two parking spaces if the exemption were applied to this use. After discussion at the Economic Development Committee on whether the exemption should be applied to all commercial uses or just to existing commercial uses, City Council approved and filed a report from staff that discussed various options for dealing with the 2000 square foot exemption. Staff recommended the following:

The third option considered is to insert the parking exemption language into the existing hierarchy of commercial districts. The pedestrian-oriented commercial districts were established for areas that have a traditional urban character with a close relationship between pedestrians and shops. These areas are intended to encourage less dependence on automobiles by encouraging interesting pedestrian environments. In these districts, the buildings are required to be built to the street or sidewalk line. The uses are intended to be smaller scale and compatible with surrounding residential neighborhoods. Such areas were designated as CN-P or CC-P zoning districts. The 2,000 square foot parking exemption for both existing and new commercial uses may promote the pedestrian-oriented character envisioned in the CN-P and CC-P districts citywide.

Furthermore, the Mixed (M) commercial districts were intended to provide a mix of the pedestrian and auto-oriented uses. Older, pedestrian-oriented buildings may be intermixed with newer, auto-oriented uses in these zoning districts, which are designated as CN-M and CC-M. In these zoning districts, it may be more appropriate for existing pedestrian-oriented uses to have the 2000 square foot parking exemption and new commercial auto-oriented uses not to have the exemption.

The most intense commercial districts are the auto-oriented CC-A and CG-A districts. These district designations are intended for areas that need for easy automobile access. Large buildings are located on sites with parking in front. These uses are located along transportation corridors and are meant to support auto-oriented development. In these two districts there should be no parking exemption.

#### **RECOMMENDATION**

Staff recommended that zoning text amendments be prepared that would allow the first 2000 square feet of existing and new commercial uses to be exempt from

the parking requirements based on whether they are located in a pedestrian-oriented, mixed, or auto-oriented commercial zoning district. In all other districts such as the Office and Manufacturing districts, the parking exemption would be limited to the first 2000 square feet of existing structures.

Additionally, staff recommended that these text amendments be submitted to the Planning Commission in April 2007 with a public hearing before the Economic Development Committee in May 2007.

The proposed text amendments incorporate the 2000 square foot exemption into the commercial, Office and Manufacturing districts as directed by the City Council.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

<b>Motion:</b>	Mr. Mooney moved approval of Items #6 and #8 - #23.
<b>Second:</b>	Mr. Stiles
<b>Ayes:</b>	Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider
<b>Nays:</b>	None, motion carried

**ITEM #22** §1439-07 Zoning Hearing Examiner

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) of a text amendment to correct a typographical error in §1439-07(d) Zoning Hearing Examiner.

**PROPOSED TEXT AMENDMENT:**

**1439-07. Zoning Hearing Examiner.**

Pursuant to Chapter 1443, the Zoning Hearing Examiner conducts public hearings and makes decisions, subject to appeal to the Zoning Board of Appeals, on applications for:

- (a) Variances;
- (b) Special exceptions;
- (c) Conditional uses; and
- (d) ~~Extension~~ **Expansion** or substitution of nonconforming uses.

**JUSTIFICATION:**

The amendment makes this section consistent with §1447-09 Expansion of Nonconforming Use.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, motion carried

**ITEM #23** §1445-11 Procedures for Application for Variances, Special Exceptions and Conditional Uses

**PURPOSE:**

To obtain approval from the City Planning Commission (CPC) on a text amendment to §1445-11(b)(2) Application Procedures for Variances, Special Exceptions and Conditional Uses. Amending this section of the Code would make it consistent with §1443-05, which was revised 7/22/05 by Ordinance #256-2005.

**PROPOSED TEXT AMENDMENT:**

**1445-11.Procedures for Application for Variances, Special Exceptions and Conditional Uses.**

The procedures for the application and application review for variances, special exceptions and conditional uses are as follows:

- (e) ***Application Form and Materials.*** An application for a variance, special exception or conditional use must be filed with the Director of Buildings and Inspections, in accordance with the provisions of Chapter 1441, Application Procedures, Permits and Certificates.
- (f) ***Application Procedures.*** The following procedures apply to the review of applications for a variance, special exception or conditional use:
  - (1) The director has the duty to prepare a staff report on the application and transmit the staff report to the Zoning Hearing Examiner prior to the public hearing.
  - (2) The examiner has the duty to schedule and hold a public hearing on the completed application in accord with the procedures for conduct of the public hearing set forth in §1443-05 and § 1443-07.

**JUSTIFICATION:**

Adding §1443-05 to this section of the code makes it clear that all property owners within a 100 foot radius of the subject property are to be given notice of public hearings for variances, special exceptions and conditional uses.

### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

**Motion:** Mr. Mooney moved approval of Items #6 and #8 - #23.  
**Second:** Mr. Stiles  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, **motion carried**

*Mr. Tarbell left the meeting at 10:40 a.m.*

### **OTHER BUSINESS**

**ITEM #24** Hamilton County Planning Partnership Annual Meeting

#### **DISCUSSION**

Ms. Wuerstle stated that the Commission members received information and registration forms for the Hamilton County Planning Partnership Annual Meeting.

**ITEM #25** Appointment to ZBA

#### **DISCUSSION**

Mr. Faux stated that Mr. vom Hofe declined appointment to the Zoning Board of Appeals (ZBA) due to the fact that the meeting is scheduled on Monday mornings. Mr. Faux explained that he had to resign and stated that a Planning Commission member was required to staff the position on the ZBA.

Mr. Mooney suggested changing the day. Mr. Uebelacker agreed and stated that it was difficult for citizens as well to attend on Monday mornings.

**ITEM #26** City Viewshed Study

#### **DISCUSSION**

Ms. Wuerstle asked that the Commission members send her any comments regarding the City Viewshed Study. The Commission asked that Ms. Wuerstle arrange for a presentation on the Viewshed Study.

### **ADJOURN**

**Motion:** Mr. Faux moved to adjourn.  
**Second:** Mr. Schneider  
**Ayes:** Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Stiles and Mr. Schneider  
**Nays:** None, **motion carried**

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Margaret A. Wuerstle, AICP  
Chief Planner

Date: \_\_\_\_\_

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Caleb Faux, Chair

Date: \_\_\_\_\_